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BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051			WU, QING YUAN	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/625,447	MITTAL, GAURAV	
	<b>Examiner</b>	<b>Art Unit</b>	
	Qing-Yuan Wu	2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 May 2009.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,5-8,12 and 15-48 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1, 5-8, 12 and 15-48 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

### **DETAILED ACTION**

1. Claims 1, 5-8, 12 and 15-48 are pending in the application.
2. As to claims 1 and 8 the steps of "receiving, retrieving, transmitting, generating and displaying" are functions performed by a processor [specification, pg. 7, lines 1-8] as suggested by applicant's specification. Therefore, the steps recited are inherently tied to a particular machine.

#### ***Continued Examination Under 37 CFR 1.114***

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/13/09 has been entered.

#### ***Claim Objections***

4. Claim 15 is objected to because of the following informalities: claim 15 depends on canceled claim 9, in addition, "the content/application download model" should read "a content/application download model". Appropriate correction is required.
5. Claims 45 and 48 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or

rewrite the claim(s) in independent form. Claims 45 and 48 direct to an alternative way of generating an initiation request and subsequently receiving download suggestion by going to a website instead of receiving the initiation request from a client device, namely, the limitations of claims 45 and 48 are intended to replace the limitation of “receiving from a client device...” as recited on lines 2-4 of claim 1 (see pg.14, line 24-pg. 15, line 6 of specification) rather than further limiting the limitation recited in claim 1, therefore claims 45 and 48 are improper dependent claims. See MPEP 608.01(n)(III).

***Specification***

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification failed to provide proper antecedent basis for the limitation “computer-readable medium” recited in claims 30-34.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1, 5-8, 12 and 15-48 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the

claimed invention. More specifically, the limitation “the request being initiated via a single user interface *without use of a separate application from the application choices*” recited in claims 1, 8, 16, 22, 26, 30 and 32 was not disclosed in the specification. The specification disclosed a single user interface (operating in the client device) to download applications [pg. 4, line 24-pg. 5, line 1; pg. 13, line 30-pg. 14, line 6] and choices of applications to be download from a server [pg. 9, lines 23-28]; whether the single user interface having any relationship with application choices for downloading, such as using or not using an application from the application choices for downloading was not disclosed. Claims 5-7, 12, 15, 17-21, 23-25, 27-29, 31 and 33-48 are rejected for incorporating the above problem from respective parent claims 1, 8, 16, 22, 26, 30 and 32 by dependency

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 8, 12, 15-21, 26-29, 32-34, 38-40, 42 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following claim language are unclear and indefinite;
  - i. As to claim 8, it is unclear whether "the request" on pg. 3, line 3 refers to "a request" on pg. 2, line 2 or "an initiation request" (generated as a result of a user request) on pg. 3, line 1. For examination purposes, the request would be treated as referring to the "initiation request" for the remainder of this office action. Claims 16, 26 and 32 exhibit similar deficiency as claim 8 and are rejected

for the same reason. Claims 12, 15, 17-21, 27-29, 33-34, 38-40, 42 and 46 are rejected for incorporating the above problem from respective parent claims 8, 16, 26 and 32 by dependency.

***Claim Rejections - 35 USC § 101***

11. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

12. Claims 30-34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

13. Claim 30, since applicant failed to specifically defined or described “a computer-readable medium” (see specification objection above), the examiner is giving the broadest reasonable interpretation to the limitation as including any computer-readable media known in the art including statutory (i.e. computer memories, hard disks, etc.) and non-statutory embodiments (i.e. carrier waves), therefore, the claims are rejected under 35 U.S.C. 101 because they are not limited to statutory embodiments. Claim 32 exhibits the same deficiency as claim 30 above and is rejected for the same reason. Claims 31 and 33-34 are rejected for failing to cure the deficiencies of their corresponding parent claims.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1, 5-8, 12 and 15-43, 45-46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbons et al (hereafter Gibbons) (U.S. Publication 2004/0034853), in view of Ketonen et al. (hereafter Ketonen) (U.S. Patent 6,973,478).

16. Gibbons was cited in previous office actions.

17. As to claim 8, Gibbons teaches the invention substantially as claimed including a method, comprising:

receiving at a client device a request for information describing available application choices [user initiating a request through a Download Application (DA) of a Mobile Terminal (MT) for list of available Download Objects (DOs), pg. 6, paragraph 74, lines 5-9 and paragraphs 75-76];

generating by the client device an initiation request for information describing available application choices and for a link to an application descriptor corresponding to each respective available application, the request being initiated via a single user interface without use of a separate application from the application choices [the DA residing in the MT is a single point of contact for user(s) and the only application used in retrieving a list of available DOs and URI to download the Wireless Application Descriptor (WAD), therefore, the request initiated using the DA is a single user interface without the use of any other application, paragraph 56; pg. 6, paragraphs 75-76 and 80-81; Fig. 2], the application descriptor including attributes to allow a

determination by the client device as to whether the respective application is suitable for the client device [WAD specifies metadata for DOs, metadata is specified as metadata element, and metadata element attributes include size of the DO and DO storage requirement, in which the (Application Manager (AM) of the) mobile terminal used to determine whether it has enough storage space to store the DO to be downloaded before downloading, pg. 5, paragraphs 61-63, 71, Table 1; pg. 14, claims 7-10];

in response to the initiation request, receiving from an application server computer through a network server computer at least one application choice and corresponding link to an application descriptor for the at least one application [pg. 4, paragraphs 52-54; Figs. 1-2; Link specified location of a WAD, pg. 6, paragraphs 76 and 81]; and

displaying, at the client device, information identifying the at least one application choice [display by the DA residing in the MT, information about the DO, pg. 6, paragraph 76].

18. Gibbons does not specifically teach not displaying the corresponding link at the client device. However, Gibbons nonetheless teaches providing the link in the client device for use in the retrieval of the application descriptor [Link specified location of a WAD, pg. 6, paragraph 76]. In addition, Ketonen teaches providing an embedded link to a customer computer for downloading a software [Ketonen, embedded link are not displayed, col. 8, line 65-col. 9, line 3; customer computer, Fig. 2a, 201, 208]. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to not display the link by embedding the link as being taught in Ketonen to download the application descriptor of Gibbons, since the application descriptor is accessible via the information displayed along with the link provided regardless of whether the link was displayed or not, and information identifying the at least one application

choice can be used in combination with the none-displayed link (i.e. embedding the link) to achieve the predictable result of retrieving application descriptor for a client device.

19. As to claim 12, Gibbons as modified teaches the invention substantially as claimed including wherein the corresponding link is one of a uniform resource locator and a uniform resource identifier [pg. 5, paragraph 64; pg. 6, paragraph 76].

20. As to claim 15, Gibbons as modified teaches wherein *the* content/application download model is one of java application management system, binary runtime environment for wireless, and CoD [pg. 1, paragraph 7; pg. 7, paragraph 87].

21. As to claim 38, Gibbons as modified teaches the invention substantially as claimed including wherein the determination by the client device includes whether the client device has a suitable operating environment for the respective application [pg. 1, paragraph 11; pg. 5, paragraph 69].

22. As to claim 39, Gibbons as modified teaches the invention substantially as claimed including wherein the determination by the client device includes whether the client device has sufficient memory to store and execute the respective application [pg. 2, paragraph 14, lines 17-20; pg. 5, paragraph 59, lines 2-4; Tables 1 and 3].

23. As to claim 40, Gibbons as modified teaches the invention substantially as claimed including wherein the determination by the client device includes whether a display for the client

device is compatible with the respective application [pg. 2, paragraph 14, lines 8-15; pg. 9, paragraph 120, line 10; Table 3].

24. As to claim 46, Gibbons as modified teaches the invention substantially as claimed including:

transmitting, from the client device, a clarification request for an associated application descriptor; and

receiving a response to the clarification request with additional attribute information for the associated application [after downloading the WAD, the WAD provides additional attribute information associated with the DO, such as URI for requirement of a DO, that have to be requested by the client device to determine requirement of the client device to execute the DO, pgs. 4-5, paragraph 59; pg. 5, paragraphs 60-63; Table 1; paragraphs 69-70].

25. As to claim 1, this claim is rejected for the same reason as claim 8 above. In addition, Gibbons as modified teaches the invention substantially as claimed including a method, comprising:

receiving from a client device an initiation request for information describing available application choices [from the perspective of the domain where the download object is downloaded from and the perspective of the Application Download Server (hereafter ADS), pg. 4, paragraph 54; pg. 6, paragraph 80; Figs. 1-2; user initiating a request through a DA of a MT, pg. 6, paragraph 74, lines 5-9 and paragraph 75];

responsive to the initiation request, retrieving for each available application information describing a respective application and a link to an application descriptor for the respective

application [the DA residing in the MT retrieving a list of available DOs and a URI to download the WAD, paragraph 56; pg. 6, paragraphs 75-76 and 80-81; Fig. 2], the application descriptor including attributes to allow a determination by the client device as to whether the respective application is suitable for the client device [WAD specifies metadata for DOs, metadata is specified as metadata element, and metadata element attributes include size of the DO and DO storage requirement, in which the (AM of the) mobile terminal used to determine whether it has enough storage space to store the DO to be downloaded before downloading, pg. 5, paragraphs 61-63, 71, Table 1; pg. 14, claims 7-10]; and

transmitting from at least one server computer the application information and the link to the client device [the DA residing in the MT retrieving a list of available DOs and WAD URI, paragraph 56; pg. 6, paragraphs 75-76, 80-81; Fig. 2D; paragraph 56; pg. 6, paragraphs 75-76 and 80-81; Figs. 1-2].

26. As to claim 5, Gibbons as modified teaches the invention substantially as claimed including wherein the at least one server computer comprises at least one of a network server and an application server [pg. 4, paragraph 57, lines 8-10].

27. As to claim 6, this claim is rejected for the same reason as claim 5 above.

28. As to claim 7, this claim is rejected for the same reason as claim 12 above.

29. As to claims 35-37, these claims are rejected for the same reason as claims 38-40 above.

30. As to claim 43, Gibbons as modified teaches the invention substantially as claimed including:

receiving, from the client device, a clarification request for an associated application descriptor; and

responding to the clarification request with additional attribute information for the associated application [in the server perspective, after the client device downloaded the WAD, the WAD provides additional attribute information associated with the DO, such as URI for requirement of a DO, that have to be requested by the client device to determine requirement of the client device to execute the DO, pgs. 4-5, paragraph 59; pg. 5, paragraphs 60-63; Table 1; paragraphs 69-70].

31. As to claim 45, Gibbons as modified teaches the invention substantially as claimed including receiving, at a web site, a selection of an application and an identification of a mobile phone number [pg. 11, paragraph 131, lines 14-18]; and transmitting, to a client device having the mobile phone number, a suggestion to download the selected application [pg. 11, paragraph 132, lines 3-7 and 16-19].

32. As to claim 48, Gibbons as modified teaches the invention substantially as claimed including receiving, at the client device, an application download suggestion initiated by another at a web site and directed to a mobile phone number of the client device [pg. 11, paragraph 131, lines 14-18; paragraph 132, lines 3-7 and 16-19].

33. As to claim 16, this claim is rejected for the same reason as claims 1 and 8 above. In addition, Gibbons as modified teaches a wide area network configured to interconnect at least one server computer and a client device [100, Fig. 1].

34. As to claim 17, Gibbons as modified teaches the invention substantially as claimed including wherein the client device is further configured to receive from the at least one server computer the application information and corresponding links, and store the links in a memory; and wherein the at least one server computer is further configured to receive a request for an application descriptor, the request comprising a link for the application descriptor, and transmit the application descriptor to the client device [provided link are either permanently or temporarily stored, pg. 6, paragraph 76, lines 4-5 and paragraph 80; Fig. 1].

35. As to claim 18, Gibbons as modified teaches the invention substantially as claimed wherein the client device is one of a computer, a handheld device, a personal digital assistant, and a wireless mobile telephone [pg. 1, paragraph 5].

36. As to claims 19-21, these claims are rejected for the same reason as claims 5-7 above.

37. As to claim 26, this claim is rejected for the same reason as claim 8 above. In addition, Gibbons teaches a processor [inherent within a mobile terminal device, pg. 1, paragraph 5].

38. As to claim 27, this claim is rejected for the same reason as claims 1, 6, 17 and 26 above. In addition, Gibbons as modified teaches a processor a content/application download model [pg.

1, paragraphs 6-7; pg. 7, paragraph 87], and receiving at the input device the application requested [DO is downloaded from protective domain, pg. 6, paragraph 81].

39. As to claim 28, Gibbons as modified teaches the invention substantially as claimed including determining from the application descriptor whether an application is suitable for downloading; and upon a determination that the application is suitable for downloading to the client device, downloading the application [pg. 5, paragraph 69; pg. 6, paragraphs 79-81; pg. 9, paragraph 119; Figs. 6 and 8] in a wireless browser independent manner [the DA is not the wireless browser of the mobile terminal. There is no indication, suggestion, or hint that the DA is a browser, therefore it is the office's position that the DA is a wireless browser independent device application, pg. 4, paragraph 50, lines 14-17 and paragraph 56; pg. 6, paragraphs 75-76, 80-81; Fig. 2; Used of BREW, WAP, and Wireless Application Descriptor (WAD), pg. 1, paragraphs 4 and 7].

40. As to claim 29, this claim is rejected for the same reason as claim 7 above.

41. As to claim 42, Gibbons as modified teaches an input device coupled to the processor [pg. 9, paragraphs 111 and 113], an output device coupled to the processor [368, 375, Fig. 3], and a memory coupled to the processor and storing instructions to configure the processor [pgs. 1-2, paragraphs 12, 14 and 28; abstract].

42. As to claim 22, this claim is rejected for the same reason as claims 1 and 26 above.

43. As to claim 23, this claim is rejected for the same reason as claim 17 above.

44. As to claim 24, this claim is rejected for the same reason as claim 17 above. In addition, Gibbons as modified teaches receiving from the client device a request to download a selected application, retrieving the selected application, and transmitting the selected application to the client device [pg. 6, paragraph 81; Fig. 2, 250].

45. As to claim 25, this claim is rejected for the same reason as claim 18 above.

46. As to claim 41, Gibbons as modified teaches a memory connected to the processor and storing program information [pgs. 1-2, paragraphs 12, 14 and 28; abstract].

47. As to claim 30, this claim is rejected for the same reason as claim 1 above.

48. As to claim 31, this claim is rejected for the same reason as claim 24 above.

49. As to claim 32, this claim is rejected for the same reason as claim 8 above.

50. As to claim 33, this claim is rejected for the same reason as claim 27 above. In addition, Gibbons as modified does not specifically teach displaying at the client device the application requested. However, Gibbons disclosed displaying information about DO (applications) [pg. 4, paragraph 56; pg. 6, paragraph 76], executing applications [pg. 1, paragraph 6] and icons that can be display on a GUI of a mobile device to represent application [pg. 9, paragraph 117; pgs. 9-10,

paragraphs 122, 125; pg. 11, paragraph 131-132]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to further improve on the teaching of Gibbons by displaying application downloaded at the client device to provide a visual indication to user for the ease of visually invoking the application for execution.

51. As to claim 34, this claim is rejected for the same reason as claim 15 above.

52. Claims 44 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbons and Ketonen, further in view of Aaltonen et al (hereafter Aaltonen) (U.S. Patent 7,006,964).

53. As to claim 44, Gibbons and Ketonen do not specifically teach determining that an additional application is required to properly execute an application requested by the client; and transmitting a query to the client device, to determine whether the application download should proceed with the additional application. However, Aaltonen teaches determining whether additional software is required for proper execution of a previously requested software and provide suggestion of downloading the additional software [Aaltonen, col. 2, lines 31-37; col. 4, lines 19-23 and 30-34]. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the teaching software downloading mechanism as being taught by Gibbons and Ketonen with the fool proof download and installation of software as being taught by Aaltonen given the advantage of not having to reassessed the operability of the downloaded software and its effect on the user terminal as being considered by Aaltonen [Aaltonen, col. 2, lines 38-44].

54. As to claim 47, this claim is rejected for the same reason as claim 44 above. In addition, Gibbons, Ketonen and Aaltonen teach receiving a query at the client device, to determine whether the application download should proceed with the additional application [Aaltonen, perspective of a client device, col. 2, lines 31-37; col. 4, lines 19-23 and 30-34].

55. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 7,035,828 to Ketonen et al. teach embedded link.

***Response to Arguments***

56. Applicant's arguments filed 5/13/09 have been fully considered but they are moot in view of the new ground of rejection.

57. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qing-Yuan Wu whose telephone number is (571)272-3776. The examiner can normally be reached on 8:30am-6:00pm Monday-Thursday and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung (Sam) Sough can be reached on (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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/Qing-Yuan Wu/  
Examiner, Art Unit 2194